

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

BENJAMIN RODRIGUEZ,

Case No. 2:22-cv-01368-ART-EJY

Plaintiff,

ORDER

v.

CLARK COUNTY DETENTION  
CENTER, *et al.*,

Defendants.

*Pro se* Plaintiff Benjamin Rodriguez brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Clark County Detention Center. (ECF No. 1-1). On August 25, 2022, this Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* (“IFP application”) or pay the full \$402 filing fee by September 30, 2022. (ECF No. 3). Plaintiff was warned the action could be dismissed if he failed to file a fully complete IFP application with all three documents or pay the full \$402 filing fee for a civil action by that deadline. (*Id.* at 2). The deadline expired, and Plaintiff did not file a fully complete IFP application or pay the full \$402 filing fee.<sup>1</sup>

## **I. DISCUSSION**

District courts have the inherent power to control their dockets, and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los*

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<sup>1</sup> On August 31, 2022, the Court received a letter from Plaintiff dated August 26, 2022. (ECF No. 4). In the letter, Plaintiff states that he is “under heavy abuse and civil rights violations in jail,” and asks the Court to “make sure [the] FBI is looking and able to” issue unspecified “subpoena[s]” concerning “murder crimes and more.” (*Id.* at 1, 6). Plaintiff does not claim to be experiencing any difficulty in completing his IFP application. It is unclear what relief Plaintiff seeks, but to the extent the letter can be construed as a motion, it is denied as moot in light of the dismissal of this action.

1 *Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based  
2 on a party's failure to obey a court order or comply with local rules. *See Carey v.*  
3 *King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to  
4 comply with local rule requiring *pro se* plaintiffs to keep court apprised of  
5 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)  
6 (dismissal for failure to comply with court order). In determining whether to  
7 dismiss an action on one of these grounds, the Court must consider: (1) the  
8 public's interest in expeditious resolution of litigation; (2) the Court's need to  
9 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
10 favoring disposition of cases on their merits; and (5) the availability of less drastic  
11 alternatives. *See In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217,  
12 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th  
13 Cir. 1987)).

14 The first two factors, the public's interest in expeditiously resolving this  
15 litigation and the Court's interest in managing its docket, weigh in favor of  
16 dismissal of Plaintiff's claims. The third factor, risk of prejudice to defendants,  
17 also weighs in favor of dismissal because a presumption of injury arises from the  
18 occurrence of unreasonable delay in filing a pleading ordered by the court or  
19 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.  
20 1976). The fourth factor—the public policy favoring disposition of cases on their  
21 merits—is greatly outweighed by the factors favoring dismissal.

22 The fifth factor requires the Court to consider whether less drastic  
23 alternatives can be used to correct the party's failure that brought about the  
24 Court's need to consider dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983,  
25 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before*  
26 the party has disobeyed a court order does not satisfy this factor); *accord*  
27 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that  
28 “the persuasive force of” earlier Ninth Circuit cases that “implicitly accepted

1 pursuit of less drastic alternatives prior to disobedience of the court's order as  
2 satisfying this element[.]" i.e., like the "initial granting of leave to amend coupled  
3 with the warning of dismissal for failure to comply[.]" have been "eroded" by  
4 *Yourish*). Courts "need not exhaust every sanction short of dismissal before finally  
5 dismissing a case, but must explore possible and meaningful alternatives."  
6 *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action  
7 cannot realistically proceed until and unless Plaintiff either files a fully complete  
8 IFP application or pays the \$402 filing fee for a civil action, the only alternative is  
9 to enter a second order setting another deadline. But the reality of repeating an  
10 ignored order is that it often only delays the inevitable and squanders the Court's  
11 finite resources. The circumstances here do not indicate that this case will be an  
12 exception: there is no hint that Plaintiff needs additional time or evidence that he  
13 did not receive the Court's order. Setting another deadline is not a meaningful  
14 alternative given these circumstances. So the fifth factor favors dismissal.

## 15 **II. CONCLUSION**

16 Having thoroughly considered these dismissal factors, the Court finds that  
17 they weigh in favor of dismissal. It is therefore ordered that this action is  
18 dismissed without prejudice based on Plaintiff's failure to file a fully complete IFP  
19 application or pay the full \$402 filing fee in compliance with this Court's August  
20 25, 2022 order. The Clerk of Court is directed to enter judgment accordingly and  
21 close this case. No other documents may be filed in this now-closed case. If  
22 Plaintiff wishes to pursue his claims, he must file a complaint in a new case.

23 It is further ordered that Plaintiff's construed motion for unspecified relief  
24 (ECF No. 4) is denied as moot.

25 DATED THIS 8th day of November 2022.

26   
27 ANNE R. TRAUM  
28 UNITED STATES DISTRICT JUDGE